

FORTY-SIXTH DAY
(Wednesday, April 6, 1983)

The Senate met at 10:30 o'clock a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Blake, Brooks, Brown, Caperton, Doggett, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Leedom, Lyon, Mauzy, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Vale, Washington, Whitmire, Williams.

A quorum was announced present.

The Reverend Dr. Freddie Dixon, Sr., Wesley United Methodist Church, Austin, offered the invocation as follows:

To men, women and children searching the night skies — You gave a star.
To shepherds on the whispering hills — You gave a voice.
To fishermen working on the shore — You gave greater work to be done.
What is your sign for us, Lord? Let us not be blind or deaf or resistant when
You come and speak to us through the legislative process. Amen.

CO-AUTHOR OF SENATE BILL 740

On motion of Senator Farabee and by unanimous consent, Senator Washington will be shown as Co-author of S.B. 740.

CO-AUTHOR OF SENATE BILL 781

On motion of Senator Mauzy and by unanimous consent, Senator Lyon will be shown as Co-author of S.B. 781.

CO-AUTHOR OF SENATE BILL 801

On motion of Senator Uribe and by unanimous consent, Senator Truan will be shown as Co-author of S.B. 801.

CO-AUTHOR OF SENATE BILL 1043

On motion of Senator Lyon and by unanimous consent, Senator Edwards will be shown as Co-author of S.B. 1043.

REPORTS OF STANDING COMMITTEES

Senator Brooks submitted the following report for the Committee on Health and Human Resources:

S.B. 850
S.B. 583 (Amended)
S.B. 698
C.S.S.B. 671 (Read first time)
C.S.S.B. 653 (Read first time)

Senator Traeger submitted the following report for the Committee on Intergovernmental Relations:

S.B. 958
S.B. 956
S.B. 955
S.B. 960 (Amended)
S.B. 800

S.B. 781
C.S.S.B. 669 (Read first time)

Senator Blake submitted the following report for the Committee on Administration:

S.C.R. 55
S.C.R. 52
S.C.R. 51
S.C.R. 49
S.C.R. 47 (Amended)
S.C.R. 46
S.B. 1245
C.S.S.B. 1221 (Read first time)

Senator Mauzy submitted the following report for the Committee on Jurisprudence:

S.B. 603
S.B. 957
C.S.S.B. 879 (Read first time)
C.S.S.B. 997 (Read first time)
C.S.S.B. 882 (Read first time)
C.S.S.B. 757 (Read first time)
C.S.S.B. 311 (Read first time)
C.S.S.B. 291 (Read first time)

Senator Parker submitted the following report for the Committee on Education:

S.B. 327
C.S.S.B. 112 (Read first time)
C.S.H.J.R. 19 (Read first time)
C.S.S.B. 543 (Read first time)

Senator Howard submitted the following report for the Subcommittee on Nominations:

We, your Subcommittee on Nominations, to which were referred the attached appointments, have had same under consideration, and beg to report them back to the Senate for final consideration.

To be PRESIDING JUDGE OF THE FIRST ADMINISTRATIVE JUDICIAL DISTRICT: Judge John David Ovard, Dallas County.

To be a Member of the FAMILY PRACTICE RESIDENCY ADVISORY COMMITTEE: Dr. Exalton Delco, Travis County.

To be Members of the BOARD OF TRUSTEES, TEACHER RETIREMENT SYSTEM OF TEXAS: Don Houseman, Dallas County; Frank Monroe, Dallas County; C. A. Roberson, Tarrant County; Dr. Lee R. Williamson, Wichita County.

To be a Member of the STATE SECURITIES BOARD: Robert K. Utley III, Bell County.

To be Members of the BOARD OF REGENTS, THE UNIVERSITY OF TEXAS SYSTEM: Robert B. Baldwin III, Travis County; Mario Yzaguirre, Cameron County; Jess Thomas Hay, Dallas County.

To be a Member of the BOARD OF REGENTS, EAST TEXAS STATE UNIVERSITY: James L. Toler, Dallas County.

To be Members of the RADIATION ADVISORY BOARD: Robert C. Dunlap, Jr., Dallas County; Mrs. Laura Keever, Harris County.

To be a Member of the TEXAS REAL ESTATE COMMISSION: Gene Stimmel, Tarrant County.

To be Members of the TEXAS SESQUICENTENNIAL MUSEUM BOARD: Henry C. Beck, Dallas County; Ann Cox, Dallas County; William S. Farish III, Harris County; George Harris, Bexar County; J. Willis Johnson, Tom Green County; Helmuth J. Naumer, Bexar County; Wilhelmina Robertson, Harris County; Robert Sakowitz, Harris County; Cornelia Friedman, Tarrant County.

To be Members of the TEXAS SURPLUS PROPERTY AGENCY: Garland P. Ferguson, Upshur County; Bennett Lloyd Gill Harber, D.D.S., Kendall County; Robert A. Lansford, Travis County.

To be Members of the TEXAS TURNPIKE AUTHORITY: J. Frank Holt, Dallas County; John P. Thompson, Dallas County.

To be a Member of the BOARD OF DIRECTORS, UPPER COLORADO RIVER AUTHORITY: Everett Grindstaff, Jr., Runnels County.

To be Members of the TEACHERS' PROFESSIONAL PRACTICES COMMISSION: Dr. Charles W. Benson, El Paso County; Mrs. Esther Gonzalez Buckley, Webb County; Dr. Betty Buford, Bell County; Jerry Caddel, Lubbock County; William E. Crockett, Fort Bend County; Mrs. Linda Bohls Ellis, Val Verde County; Mrs. Carolyn Harrell, Gonzales County; Dr. William L. McKinney, Galveston County; Mrs. Farris W. Sharp, Dallas County; Mrs. Reba Sommerville, Tarrant County; Mrs. Betty Starling, Hays County; Dolores Valadez, Hidalgo County.

To be Members of the UPPER GUADALUPE RIVER AUTHORITY: L. F. Earlan Koehler, Kerr County; Raymond Mosty, Kerr County; Charles Schreiner IV, Kerr County.

To be Members of the STATE BOARD OF VOCATIONAL NURSE EXAMINERS: Rafael Acosta, Harris County; Mrs. E. Kathleen Franklin, Jefferson County; Mrs. Dorothy S. Harris, Victoria County; Mrs. Lola Marie Mills, Tom Green County; Mrs. Bobbie Jo Haney, Tarrant County.

To be Members of the GOVERNOR'S COMMISSION ON PHYSICAL FITNESS: Ted L. Edwards, Jr., M.D., Travis County; Rollin A. Sininger, Ph.D., Denton County; James Howard Sundberg, Tarrant County.

To be a Member of the BOARD OF REGENTS, WEST TEXAS STATE UNIVERSITY: T. Boone Pickens, Jr., Potter County.

To be JUDGE OF THE 88th JUDICIAL DISTRICT: Lee Roger Ratliff, Hardin County.

To be a Member of the BOARD OF REGENTS, EAST TEXAS STATE UNIVERSITY: Leon Jackson Coker, Jr., Bowie County.

SENATE BILLS AND RESOLUTIONS ON FIRST READING

On motion of Senator Caperton and by unanimous consent, the following bills and resolutions were introduced, read first time and referred to the Committee indicated:

S.B. 1292 by Farabee

Health and Human Resources

Relating to the creation, administration, powers, duties, operation, and financing of the Foard County Hospital District.

S.B. 1293 by McFarland Health and Human Resources
Relating to the removal of corneal tissue from certain decedents.

S.C.R. 59 by Caperton Administration
Granting Shelia A. Jones permission to sue the State.

S.C.R. 61 by Brooks, Edwards State Affairs
Creating a joint interim committee to study the marketing changes occurring in the field of telecommunications.

HOUSE BILLS AND RESOLUTIONS ON FIRST READING

The following bills and resolutions received from the House were read the first time and referred to the Committee indicated:

H.B. 40, To Committee on Jurisprudence.
H.B. 41, To Committee on Jurisprudence.
H.B. 68, To Committee on Jurisprudence.
H.B. 94, To Committee on Jurisprudence.
H.B. 99, To Committee on Jurisprudence.
H.B. 102, To Committee on Health and Human Resources.
H.B. 188, To Committee on Natural Resources.
H.B. 218, To Committee on Intergovernmental Relations.
H.B. 225, To Committee on Health and Human Resources.
H.B. 333, To Committee on Intergovernmental Relations.
H.B. 373, To Committee on Intergovernmental Relations.
H.B. 374, To Committee on Jurisprudence.
H.B. 399, To Committee on Intergovernmental Relations.
H.B. 449, To Committee on Economic Development.
H.B. 499, To Committee on Jurisprudence.
H.B. 600, To Committee on State Affairs.
H.B. 657, To Committee on Intergovernmental Relations.
H.B. 672, To Committee on Intergovernmental Relations.
H.B. 680, To Committee on Education.
H.B. 797, To Committee on Economic Development.
H.B. 853, To Committee on Economic Development.
H.B. 861, To Committee on Jurisprudence.
H.B. 957, To Committee on State Affairs.
H.B. 1199, To Committee on Natural Resources.
H.B. 1200, To Committee on Intergovernmental Relations.
H.B. 1214, To Committee on State Affairs.
H.B. 1231, To Committee on Natural Resources.
H.C.R. 43, To Committee on Administration.
H.C.R. 62, To Committee on Intergovernmental Relations.
H.C.R. 88, To Committee on Natural Resources.

BILLS AND RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills and resolutions:

S.C.R. 23
S.C.R. 28
S.B. 101
S.B. 114
S.B. 132
S.B. 136
S.B. 171
S.B. 209

S.B. 256

S.B. 374

S.B. 434

S.B. 452

H.C.R. 4

H.C.R. 14

H.C.R. 144

SENATE RESOLUTION 421

Senator Sims offered the following resolution:

WHEREAS, The beautiful West Texas city of San Angelo has long been recognized as one of the state's outstanding cities and one of Texas' most important trading centers; and

WHEREAS, Known as the "Sheep and Wool Capital of the World," it is the nation's largest primary wool market, as well as a leading center for producing, processing, and shipping wool and mohair; and

WHEREAS, The city, also recognized as a major center for petroleum products and agribusiness, originally was named St. Angela and had its beginnings near Fort Concho, which was established in 1867; San Angelo grew up around the fort as a typical western town of saloons and gambling houses and has always been a trading center for wool and cattle; and

WHEREAS, San Angelo's rich past is currently being preserved through the restoration of much of the architecture on Concho Street, the first street established in St. Angela and through the recent preservation of Fort Concho; and

WHEREAS, The future of this growing city is also of importance to its proud citizens; San Angelo's beautiful Concho River, home of the unique concho pearl, is being developed into a multiuse riverwalk area for the enjoyment of residents and tourists alike; and

WHEREAS, Several important events are held annually which attract many visitors from throughout the state, including the Stock Show and Rodeo, the Lamblast, a lamb cookoff highlighting the sheep industry, and the Fiesta del Concho, the river celebration; and

WHEREAS, San Angelo is the home of 84,000 hardworking and individualistic Texans who have built outstanding educational, cultural, and medical facilities for their community, and every San Angeleno as well as every Texan should be aware and proud of the tremendous growth and development of this outstanding city over the past 116 years; and

WHEREAS, It is appropriate that the Senate of the State of Texas recognize San Angelo and its citizens for contributions and accomplishments; now, therefore, be it

RESOLVED, That the Senate of the State of Texas of the 68th Legislature designate Wednesday, April 6, 1983, as "San Angelo Day in Austin"; and, be it further

RESOLVED, That a copy of this resolution be prepared for the city of San Angelo in recognition of this special occasion and as a token of highest esteem from the Senate of the State of Texas.

The resolution was read and was adopted.

SENATE RESOLUTION 417

Senator Truan offered the following resolution:

WHEREAS, The Senate of the State of Texas deems it an honor to recognize citizens for their involvement in the public affairs of the state and nation; and

WHEREAS, Lucien Flournoy of Alice, Jim Wells County, Texas, is one of Texas's leading drilling contractors and independent oil and gas producers; and

WHEREAS, Lucien Flournoy has been described by Texas Business magazine as "a legend in South Texas"; and

WHEREAS, Lucien Flournoy currently serves as President and Chief Executive Officer of Flournoy Drilling Company, overseeing the operation of 11 land power drilling rigs as well as a fleet of trucks in the South Texas area; his achievements in the development of the oil and gas industry have helped to insure a reliable energy source for all Texans; and

WHEREAS, Born June 13, 1919, in Greenwood, Louisiana, Mr. Flournoy completed Greenwood High School in 1936 and continued his education at Louisiana State University where he majored in mathematics and studied in the School of Petroleum Engineering; and

WHEREAS, Lucien Flournoy began his present day corporation by designing and building his first drilling rig in Alice, Texas, in 1947; and

WHEREAS, His managerial skills took the Flournoy Drilling Company from its first lone rig in 1947 to a large company with numerous divisions and subsidiaries; and

WHEREAS, On June 29, 1983, Lucien Flournoy and his wife, Maxine, will celebrate their 37th wedding anniversary; their marriage has been blessed with three daughters, Mary Anne Flournoy Guthrie, Betty Louise Flournoy Fields, and Helen Ruth Flournoy Pope, and six grandchildren, Benjamin Gregory Guthrie, Anne Elizabeth Guthrie, Byron Fields, Beckham James Fields, John Burwell Pope IV, and Daniel Flournoy Pope; and

WHEREAS, As Councilman from 1963-1967 and Mayor from 1967-1971 for the City of Alice, a member of the Alice Chamber of Commerce, and a member of the Board of Directors for the First City Bank of Alice, Lucien Flournoy has served his community in a variety of positions; and

WHEREAS, Lucien Flournoy is a Commissioner of the Texas Aeronautics Commission, a member of the Board of Directors for the Coastal Bend Community Foundation, a Guardian of Scouting in the Gulf Coast Council for the Boy Scouts of America, a member of the Board of Directors of the Central Power & Light Company, a member of the Texas Mid-Continent Oil & Gas Association, and a member of the Texas Independent Producers & Royalty Owners Association; and

WHEREAS, Lucien Flournoy takes the duties of citizenship seriously by being an active participant in the public and political affairs of Texas and the United States, presently serving as a member of the Democratic National Finance Council; he is a prominent leader in the Texas Democratic Party whose advice and counsel is frequently sought by many of Texas's elected officials; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 68th Legislature, pay tribute to an outstanding American citizen of Texas and extend gratitude to him for his many contributions to the citizens of this state and country; and, be it further

RESOLVED, That an official copy of this Resolution be prepared for Lucien Flournoy and his family under the Seal of the Senate as a token of appreciation and esteem from the Texas Senate.

The resolution was read and was adopted.

On motion of Senator Uribe and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

GUEST PRESENTED

The President introduced Mr. Flournoy to the Senate and presented to him an enrolled copy of S.R. 417.

Mr. Flournoy expressed his appreciation to the Members.

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was referred to the Committee on State Affairs, Subcommittee on Nominations:

Austin, Texas
April 6, 1983

TO THE SENATE OF THE SIXTY-EIGHTH LEGISLATURE, REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointments:

TO BE MEMBERS OF THE TEXAS GUARANTEED STUDENT LOAN CORPORATION BOARD OF DIRECTORS:

For terms to expire January 31, 1989:

HULEN M. DAVIS, SR.

Box 2747

Prairie View, Texas 77445

(Mr. Davis is replacing Ms. Naomi W. Lede of Houston, Harris County, Texas, whose term expired.)

WILLIAM H. SCHROEDER, JR.

1308 Aspen Street

Lockhart, Texas 78644

(Mr. Schroeder is replacing Mr. Milton A. Morris of Canyon, Randall County, Texas, whose term expired as a public member.)

JOHN R. SCHOTT

1427 Schulle Drive

San Marcos, Texas 78666

(Mr. Schott is replacing Ms. Fran A. Burke of Dallas, Dallas County, Texas, whose term expired.)

Respectfully submitted,

/s/Mark White
Governor of Texas

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was filed with the Secretary of the Senate:

Austin, Texas
March 29, 1983

TO THE SENATE OF THE SIXTY-EIGHTH LEGISLATURE, REGULAR SESSION:

Pursuant to Article III, Section 5, of the Texas Constitution, I, Mark White, Governor of the State of Texas, submit the following emergency matter for immediate consideration by the 68th Legislature, now convened:

S.B. 729 by Caperton relating to the regulatory and enforcement procedures and authority of the Railroad Commission of Texas; providing penalties.

Respectfully submitted,

/s/Mark White
Governor of Texas

SENATE BILL 220 WITH HOUSE AMENDMENT

Senator Caperton called **S.B. 220** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.
Amendment No. 1 - Shaw

Amend Section 3 of **S.B. 220** by adding the seven words indicated:

SECTION 3. The governing body of a municipality by ordinance may make an area a part of the municipality if on the date of the adoption of the ordinance:

(1) the records of the city indicate that the area has been a part of the municipality for at least the preceding 20 years;

(2) the municipality has provided police protection and other services, and otherwise treated the area as a part of the municipality during the preceding 20 years;

(3) no final judicial determination has been made during the preceding 20 years that the area is outside the boundaries of the municipality; and

(4) no lawsuit is pending that challenges the inclusion of the area as a part of the municipality.

The amendment was read.

Senator Caperton moved to concur in the House amendment.

The motion prevailed.

NOTICE OF CONSIDERATION OF EXECUTIVE NOMINATIONS

Senator Howard gave notice that he would tomorrow at the conclusion of Morning Call submit to the Senate for consideration Executive nominations to agencies, boards and commissions of the State.

MESSAGE FROM THE HOUSE

House Chamber

April 6, 1983

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 185, Relating to the responsibility of a railway corporation for obstructing a street, railway crossing, or highway.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

COMMITTEE SUBSTITUTE SENATE BILL 232 ON SECOND READING

On motion of Senator Caperton and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 232, Relating to the continuation of the Public Utility Commission of Texas and the regulation of utilities.

The bill was read second time.

Senator Jones offered the following amendment to the bill:

Floor Amendment No. 1

Amend C.S.S.B. 232 as follows:

On page 4, line 50, after the period insert "A person who is required to register as a lobbyist under Chapter 22, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9c, Vernon's Texas Civil Statutes), by virtue of his activities for compensation in or on behalf of a profession related to the operation of the commission may not serve as a member of the commission or act as the general counsel to the commission."

The amendment was read and was adopted.

Senator Howard offered the following amendment to the bill:

Floor Amendment No. 2

Amend the Committee Substitute for S.B. 232 as follows:

On page 5, add a new Subsection (j) to Section 6 of the Act to read as follows:

"(j) The commission shall require its members and employees to read this section and as often as necessary shall provide information regarding their responsibilities under applicable laws relating to standards of conduct for state officers and employees."

The amendment was read and was adopted.

Senator Howard offered the following amendment to the bill:

Floor Amendment No. 3

Amend the Committee Substitute for S.B. 232 as follows:

On page 5, add a new section 6A to the Act to read as follows:

"Sec. 6A. (a) It is a ground for removal from the commission if a member:
(1) does not have at the time of appointment the qualifications required by Section 6 of this Act for appointment to the commission; or
(2) does not maintain during the service on the commission the qualifications required by Section 6 of this Act for appointment to the commission.
(b) The validity of an action of the commission is not affected by the fact that it was taken when a ground for removal of a member of the commission existed."

The amendment was read and was adopted.

Senator Howard offered the following amendment to the bill:

Floor Amendment No. 4

Amend the Committee Substitute for S.B. 232 as follows:

On page 26, lines 38 and 39, strike the words "and shall be subject to periodic audit." and substitute "[and shall be subject to periodic audit]. The state auditor shall audit the financial transactions of the commission during each fiscal year."

The amendment was read and was adopted.

Senator Howard offered the following amendment to the bill:

Floor Amendment No. 5

Amend the Committee Substitute for S.B. 232 as follows:

On page 26, line 41, before the word "Any" insert the subsection letter "(a)"; and after the period in line 46 insert: "The commission shall keep an information file about each complaint filed with the commission relating to a utility. The commission shall retain the file for a reasonable period."

(b) If a written complaint is filed with the commission relating to a utility, the commission, at least as frequently as quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation."

The amendment was read and was adopted.

Senator Farabee offered the following amendment to the bill:

Floor Amendment No. 6

Amend Sec. 5a of S.B. 232 to read as follows:

Sec. 5a. The Public Utility Commission of Texas and the Office of Public Utility Counsel are (is) subject to the Texas Sunset Act; and unless continued in existence as provided by that Act the commission and the Office of Public Utility Counsel are (is) abolished, and this Act expires effective September 1, 1995 (1983).

Explanation: the words "and the Office of Public Utility Counsel are" are added in lines 4 & 5 to conform to the Committee amendment putting the Office of Public Utility Counsel under Sunset in line 2.

The amendment was read.

Senator Doggett offered the following amendment to the amendment:

Floor Amendment No. 7

Amend Floor Amendment No. 6 to C.S.S.B. 232 by striking "1995" and substituting in lieu thereof "1991".

The amendment to the amendment was read and failed of adoption by the following vote: Yeas 9, Nays 22.

Yeas: Caperton, Doggett, Edwards, Mauzy, Parker, Parmer, Truan, Uribe, Washington.

Nays: Blake, Brooks, Brown, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Leedom, Lyon, McFarland, Montford, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Vale, Whitmire, Williams.

Question recurring on the adoption of Floor Amendment No. 6, Floor Amendment No. 6 was adopted.

Senator Caperton offered the following amendment to the bill:

Floor Amendment No. 8

Amend C.S.S.B. 232 on page 5 by striking the language in subsection (i) lines 62-68, and substituting in lieu thereof the following:

(i) No employee shall, within one year after his employment with the Commission has ceased, be employed by a regulated utility which was in the

scope of the employees official responsibility while the employee was associated with the Commission.

CAPERTON
DOGGETT
FARABEE

The amendment was read and was adopted.

Senator Caperton offered the following amendment to the bill:

Floor Amendment No. 9

Amend C.S.S.B. 232 by deleting the words "10-year plan" on page 21, line 50, and replacing them with the words "long term forecast".

The amendment was read and was adopted.

Question - Shall C.S.S.B. 232 as amended be passed to engrossment?

GUEST OF SENATE

The President introduced The Honorable Cathy Whitmire, Mayor of the City of Houston.

She was welcomed as a guest of the Senate.

RECESS

On motion of Senator Brooks, the Senate at 11:56 o'clock a.m. took recess until 2:00 o'clock p.m. today.

AFTER RECESS

The Senate met at 2:00 o'clock p.m. and was called to order by the President.

LEAVE OF ABSENCE

Senator Washington was granted leave of absence for the remainder of today on account of important business on motion of Senator Brooks.

MESSAGE FROM THE HOUSE

House Chamber
April 6, 1983

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 121, Relating to the creation of a judicial district composed of the counties of Washington, Lee, Bastrop, and Burleson and an appropriation for the salary and expenses of the judge of the court.

H.B. 15, A bill to be entitled An Act relating to the temporary employment of persons in certain fire departments and police departments.

H.B. 229, A bill to be entitled An Act relating to acknowledgements of paternity on birth certificates.

H.B. 276, A bill to be entitled An Act relating to the persons authorized to request an autopsy.

H.B. 376, A bill to be entitled An Act relating to the liability of certain personal representatives for attorney's fees.

H.B. 464, A bill to be entitled An Act relating to coordination of benefits between certain insurance policies.

H.B. 480, A bill to be entitled An Act relating to research and management of alligators, fur-bearing animals, and other wildlife resources, and to the removal of alligators and fur-bearing animals from wildlife management areas.

H.B. 622, A bill to be entitled An Act relating to nonprofit corporations a purpose of which is to assist a State agency.

H.B. 943, A bill to be entitled An Act relating to write-in voting in an election for the office of trustee of an independent school district.

H.B. 410, A bill to be entitled An Act relating to the purchase of firearms from the state by retiring state peace officers.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

COMMITTEE SUBSTITUTE SENATE BILL 232 ON SECOND READING

The Senate resumed consideration of C.S.S.B. 232 on its second reading and passage to engrossment.

Question - Shall C.S.S.B. 232 as amended be passed to engrossment?

Senator Doggett offered the following amendment to the bill:

Floor Amendment No. 10

Amend C.S.S.B. 232 in the following ways:

1. Strike Sections 5, 6(a), and 7 and substitute in lieu thereof the following:

Sec. 5. (a) The [A commission, to be known as the] "Public Utility Commission of Texas" [is hereby created] consists of six commissioners who are elected from single-member districts at the general election for state and county officers and who serve staggered, six-year terms beginning on January 1 following the year of their election.

(b) At its first regular session after publication of a federal census, the legislature shall revise district boundaries to take account of population changes in the districts. At the first general election following a revision of district boundaries by the legislature, members shall be elected from all districts, and after taking office they shall draw lots so that two members serve six-year terms, two members serve four-year terms, and two members serve two-year terms. [It shall consist of three commissioners, who shall be appointed by the governor, with the advice and consent of two thirds of the members of the senate present, and who shall have and exercise the jurisdiction and powers herein conferred upon the commission. Immediately after this Act takes effect, the governor shall, with the advice and consent of the senate, appoint one commissioner whose term shall expire two years after appointment, one commissioner whose term shall expire four years after appointment, and one commissioner whose term shall expire six years after appointment. At the expiration of each of the above named terms, there shall be appointed, in the same manner, one commissioner to hold office for a term of six years. Each commissioner shall hold office until his successor is appointed and qualified.]

(c) At its first meeting following January 1 of each odd-numbered year [the biennial appointment and qualification of a commissioner], the commission shall elect one of the commissioners chairman.

(d) No commissioner or candidate for commission may receive campaign contributions from any utility or affiliated interest, or from any person, corporation, agent, representative, employee or other business entity a significant portion of whose business consists of furnishing goods or services to public utilities or affiliated interests.

(e) "Affiliated interest", for the purpose of this section, is defined as a person, corporation, or other entity that directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, the corporation or person specified. "Control" means the possession, direct or indirect, of the power to direct or cause the direction of management and policies of the person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or non-management services, or otherwise. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds irrevocable proxies representing ten percent (10%) or more of the voting securities or authority of any other person.

(f) "Significant portion" means at least five percent (5%) of the annual gross revenues or receipts earned by the corporation, person, partnership, or entity.

Sec. 6 (a) To be eligible for election [appointment] as a commissioner, a person must be a qualified voter, not less than 30 years of age, a citizen of the United States, and a resident of the State of Texas. No person is eligible for election [appointment] as a commissioner if at any time during the two-year period immediately preceding his election [appointment] he personally served as an officer, director, owner, employee, partner, or legal representative of any public utility or any affiliated interest, or he owned or controlled, directly or indirectly, stocks or bonds of any class with a value of \$10,000 or more in public utility or any affiliated interest. A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9c, Vernon's Texas Civil Statutes), may not serve as a member of the commission or act as the general counsel to the commission. Each commissioner shall qualify for office by taking the oath prescribed for other state officers and shall execute a bond for \$5,000 payable to the state and conditioned on the faithful performance of his duties.

Sec. 7. A [Whenever a] vacancy in the office of commissioner [occurs, it] shall be filled for the remainder of the unexpired term by a special election called by the governor and held in accordance with Section 32c, Texas Election Code (Article 4.12, Vernon's Texas Election Code) [in the manner provided herein with respect to the original until the vacancy can be filled in the manner provided. Any person appointed with the advice and consent of the senate to fill a vacancy shall hold office during the unexpired portion of the term].

2. Renumber Section 2 as Section 9 and add Sections 2, 3, 4, 5, 6, 7, and 8 to read as follows:

SECTION 2. Subdivision 7(a), Section 12, Texas Election Code (Article 2.04, Vernon's Texas Election Code), is amended to read as follows:

(a) A county election precinct may not contain territory from more than one of the following territorial units:

- (1) commissioners precinct;
- (2) justice precinct;
- (3) congressional district;
- (4) state representative district;
- (5) state senatorial district; [or]
- (6) public utility commissioner district; or
- (7) [(6)] ward in a city or town with a population of 10,000 or more.

SECTION 3. Subdivision 3(a), Section 32a, Texas Election Code (Article 4.10, Vernon's Texas Election Code), is amended to read as follows:

(a) The application must be filed with the Secretary of State in the case of a statewide or district special election. It must be accompanied with a fee of \$1,000 for a statewide office, including without limitation the office of United States Senator, a fee of \$750 for the district office of Public Utility Commissioner, a fee of \$500 for the district office of United States Representative, a fee of \$400 for the district office of State Senator, and a fee of \$200 for the district office of State Representative; or, in lieu of the filing fee, the application must be accompanied with a petition signed by at least 5,000 registered voters of the state in the case of a statewide office, and by at least 500 registered voters of the district in the case of a district office. A petition must show the address, voter registration number, and date of signing for each signer. No person may sign the petition of more than one candidate for the same office, and if a person signs the petition of more than one candidate, the signature is void as to all such petitions. A petition may be in multiple parts. To each part, which may consist of one or more sheets, there must be attached the affidavit of some registered voter, giving his address and voter registration number, and stating that each signature appearing in that part of the petition was affixed in the presence of the affiant and that to the best knowledge and belief of the affiant each signature is genuine and each person signing was a registered voter at the time of signing. A petition so verified is prima facie evidence that the signatures thereon are genuine and that the persons signing it are registered voters. Fees received under this subdivision shall be deposited in the general revenue fund of the state.

SECTION 4. Subdivisions 1 and 2, Section 32c, Texas Election Code (Article 4.12, Vernon's Texas Election Code), are amended to read as follows:

Subdiv. 1. Whenever there is a special election in a [any] representative or senatorial district in this state for the election of a [any] member of the Legislature or in a district for election of a Public Utility Commissioner, a majority vote of the electors participating in the election shall be necessary for election. If no candidate receives a majority of the votes cast at the first election, the Governor shall, within five days after the results of the election are officially declared, call a second election to be held not less than fifteen nor more than twenty-five days after the date of the proclamation or order calling the election. In the second special election the candidates shall be limited to the participants in the first election who received the largest and next largest number of votes at the first election.

Subdiv. 2. Whenever there is a special election in a [any] representative or senatorial district in this state for the election of a [any] member of the Legislature or in a district for election of a Public Utility Commissioner, the commissioners court of each county in the district shall meet within three days after the election is held and canvass the returns. The county judge of each county in which the election was held shall, within twenty-four hours after the commissioners court canvasses the result, make out duplicate returns of the election, one of which he shall immediately transmit to the seat of government of the state, sealed in an envelope, directed to the Secretary of State, and endorsed "Election Returns for _ County, for _" (filling the first blank with the name of the county and the other blank with the name of the office for which the election was held); and the other of the returns shall be deposited in the office of the county clerk where the election was held.

SECTION 5. The heading of Section 32c, Texas Election Code (Article 4.12, Vernon's Texas Election Code), is amended to read as follows:

SPECIAL ELECTIONS FOR MEMBERS OF THE LEGISLATURE OR PUBLIC UTILITY COMMISSION

SECTION 6. Subdivision 1(a), Section 61c, Texas Election Code (Article 6.05c, Vernon's Texas Election Code), is amended to read as follows:

(a) Whenever there are to appear on the ballot for any general, special, or primary election, two or more office titles of offices which are regularly filled at the

general election provided for in Section 9 of this code, they shall be listed on the ballot in the following relative order:

Federal offices:

President and Vice President

United States Senator

Congressman-at-Large

United States Representative (district office)

State offices:

(1) Statewide offices

Governor

Lieutenant Governor

Attorney General

Comptroller of Public Accounts

State Treasurer

Commissioner of General Land Office

Commissioner of Agriculture

Railroad Commissioner

Chief Justice, Supreme Court

Justice, Supreme Court

Presiding Judge, Court of Criminal Appeals

Judge, Court of Criminal Appeals

(2) District offices

State Senator

State Representative

Public Utility Commissioner

Member, State Board of Education

Chief Justice, Court of Appeals

Associate Justice, Court of Appeals

District Judge

Criminal District Judge

District Attorney

Criminal District Attorney

(3) County offices

County Judge

Judge, County Court-at-Law

Judge, County Criminal Court

Judge, County Probate Court

County Attorney

District Clerk

District and County Clerk

County Clerk

Sheriff

Sheriff and Tax Assessor-Collector

County Tax Assessor-Collector

County Treasurer

County School Superintendent

County Surveyor

Inspector of Hides and Animals

(4) Precinct offices

County Commissioner

Justice of the Peace

Constable

Public Weigher.

The headings "federal offices" and "state offices" and the subheadings under "state offices" shall not be printed on the ballot.

SECTION 7. Section 186(c), Texas Election Code (Article 13.08, Vernon's Texas Election Code), is amended to read as follows:

(c) The schedule of filing fees for either a full term or an unexpired term for the various offices is as follows:

(1) United States Senator	\$2,000
(2) All other statewide offices	1,500
(3) United States representative	1,500
(4) State senator	750
(5) State representative	400
(6) Member, state board of education	250
(7) Chief justice or associate justice, court of appeals	750
(8) District judge or judge of any court having status of a district court as classified in Section 61c of this code, as added and amended (Article 6.05c, Vernon's Texas Election Code)	700
(9) Judge of a statutory county court or judge of any court having status of a county court as classified in Section 61c of this code, as added and amended (Article 6.05c, Vernon's Texas Election Code), other than the constitutional county court	700
(10) District attorney or criminal district attorney or a county attorney that performs the same functions as either of the above	600
(11) Public utility commissioner	<u>750</u>
(12) [(+1)] A county office as classified in Section 61c of this code, as added and amended (Article 6.05c, Vernon's Texas Election Code), for which a specific fee is not set by this subsection	300
(13) [(+2)] County surveyor or inspector of hides and animals	50
(14) [(+3)] Judge of the constitutional county court and county commissioner, County of 200,000 or more inhabitants	600
County under 200,000 inhabitants	300
(15) [(+4)] Justice of the peace or constable, County of 200,000 or more inhabitants	500
County under 200,000 inhabitants	200
(16) [(+5)] Public weigher	50

No fee shall be charged for any office of a political party.

SECTION 8. (a) At each election of public utility commissioners held before district boundaries are revised by the legislature, commissioners shall be elected from the following districts composed of Texas representative districts as they exist on the effective date of this Act:

- (1) District 1, consisting of Texas representative districts 64-88;
- (2) District 2, consisting of Texas representative districts 12, 45-58, and 115-124;
- (3) District 3, consisting of Texas representative districts 89-103 and 105-114;
- (4) District 4, consisting of Texas representative districts 13, 21, 23-44, and 150;
- (5) District 5, consisting of Texas representative districts 1-11, 14-20, 22, 59-63, and 104; and

(6) District 6, consisting of Texas representative districts 125-149.

(b) The governor shall appoint, with the advice and consent of the senate, a successor to the commissioner whose term expires on September 1, 1983, to hold office until January 1, 1985.

(c) A vacancy in the office of commissioner that occurs before January 1, 1985, shall be filled for the unexpired term as provided in Sections 5 and 7, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), as those sections existed before the effective date of this Act, and those sections are continued in effect until January 1, 1985, for that purpose as if this Act were not in force.

(d) Six commissioners shall be elected at the general election in 1984, two for six-year terms, two for four-year terms, and two for two-year terms. They shall draw lots to determine which commissioners serve six-, four-, and two-year terms.

(e) The terms of all appointed commissioners expire when the elected commissioners take office.

(f) Successors to commissioners elected under this section are elected for full, six-year terms.

The amendment was read.

On motion of Senator Farabee, the amendment was tabled by the following vote: Yeas 19, Nays 10, Paired 1.

Yeas: Blake, Brown, Edwards, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Leedom, McFarland, Montford, Parker, Sarpalius, Sharp, Sims, Traeger, Uribe, Vale.

Nays: Brooks, Caperton, Doggett, Lyon, Mauzy, Parmer, Santiesteban, Truan, Whitmire, Williams.

Absent-excused: Washington.

PAIRED VOTE

Senator Farabee (present), who would vote "Yea", with Senator Washington (absent), who would vote "Nay".

Senator Caperton offered the following amendment to the bill:

Floor Amendment No. 11

Amend C.S.S.B. 232 as follows:

Section 5, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 5. ~~The [A commission, to be known as the]~~ 'Public Utility Commission of Texas' consists of three commissioners elected at large at a general election who shall hold their offices for staggered six-year terms. In case of vacancy in the office of any commissioner, the governor shall fill the vacancy until the next general election for state officers, and at such general election the vacancy for the unexpired term shall be filled by election by the qualified voters of the state. The commissioners who may be in office at the time this amendment takes effect shall continue in office until the expiration of their term of office under the present Act and until their successors are elected and qualified [is hereby created]. [It shall consist of three commissioners, who shall be appointed by the governor, with the advice and consent of two thirds of the members of the senate present, and who shall have and exercise the jurisdiction and powers herein conferred upon the commission. Immediately after this Act takes effect, the governor shall, with the advice and consent of the senate, appoint one commissioner whose term shall expire two years after appointment, one commissioner whose term shall expire four years

after appointment, and one commissioner whose term shall expire six years after appointment. At the expiration of each of the above named terms, there shall be appointed, in the same manner, one commissioner to hold office for a term of six years. Each commissioner shall hold office until his successor is appointed and qualified.] At its first meeting following the election [biennial appointment] and qualification of the commissioners [a commissioner], the commission shall elect one of the commissioners chairman."

The Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes) is amended by adding a new Section 6, renumbering present Section 6 as Section 7 and amending Subsections (a) and (h) thereof, and deleting present Section 7 as follows:

"Section 6. It shall be unlawful for any candidate for the office of Public Utility Commissioner or any officeholder of the Public Utility Commission of Texas to knowingly accept a contribution from an officer or director of a public utility or to knowingly accept a contribution from any political committee which is affiliated directly or indirectly with the offices, directors, employees, or shareholders of a public utility. Any candidate or officeholder who violates this section shall be guilty of a felony of the third degree.

Section 7 [6]. (a) To be eligible for election [appointment] as a commissioner, as person must be a qualified voter, not less than 30 years of age, a citizen of the United States, and a resident of the State of Texas. No person is eligible for election [appointment] as a commissioner if at any time during the two-year period immediately preceding his election [appointment] he personally served as an officer, director, owner, employee, partner, or legal representative of any public utility or any affiliated interest, or he owned or controlled, directly or indirectly, stocks or bonds of any class with a value of \$10,000 or more in a public utility or any affiliated interest. Each commissioner shall qualify for office by taking the oath prescribed for other state officers and shall execute a bond for \$5,000 payable to the state and conditioned on the faithful performance of his duties.

"(h) No member of the commission may seek nomination or election to any other civil office of the State of Texas or of the United States while he is a commissioner. If any member of the commission files for nomination for or election to any civil office of the State of Texas or of the United States, his office as commissioner immediately becomes vacant, and the governor shall appoint a successor who will fill the vacancy until the next succeeding general election.

"[Section 7. Whenever a vacancy in the office of commissioner occurs, it shall be filled in the manner provided herein with respect to the original appointment, except that the governor may make interim appointments to continue until the vacancy can be filled in the manner provided. Any person appointed with the advice and consent of the senate to fill a vacancy shall hold office during the unexpired portion of the term.]"

The amendment was read.

On motion of Senator Farabee, the amendment was tabled by the following vote: Yeas 19, Nays 10, Paired 1.

Yeas: Blake, Brown, Edwards, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Leedom, McFarland, Montford, Parker, Sarpalius, Sharp, Sims, Traeger, Uribe, Vale.

Nays: Brooks, Caperton, Doggett, Lyon, Mauzy, Parmer, Santiesteban, Truan, Whitmire, Williams.

Absent-excused: Washington.

PAIRED VOTE

Senator Farabee (present), who would vote "Yea", with Senator Washington (absent), who would vote "Nay".

Senator Mauzy offered the following amendment to the bill:

Floor Amendment No. 12

Amend C.S.S.B. 232 by striking Sec. 5, 6(a), 6(h) and 7 and substituting in lieu thereof the following and adding new Sections 2, 3, 4, 5, 6, 7, and 8:

Sec. 5. (a) ~~The [A commission, to be known as the]~~ "Public Utility Commission of Texas" ~~[is hereby created]~~ consists of nine commissioners who are elected at the general election for state and county officers and who serve staggered, six-year terms beginning on January 1 following the year of their election.

~~(b) At the first general election following a revision of district boundaries by the legislature, members shall be elected from all districts, and after taking office they shall draw lots so that three members serve six-year terms, three members serve four-year terms, and three members serve two-year terms. [It shall consist of three commissioners, who shall be appointed by the governor, with the advice and consent of two-thirds of the members of the senate present, and who shall have and exercise the jurisdiction and powers herein conferred upon the commission. Immediately after this Act takes effect, the governor shall, with the advice and consent of the senate, appoint one commissioner whose term shall expire two years after appointment, one commissioner whose term shall expire four years after appointment, and one commissioner whose term shall expire six years after appointment. At the expiration of each of the above named terms, there shall be appointed, in the same manner, one commissioner to hold office for a term of six years. Each commissioner shall hold office until his successor is appointed and qualified.]~~

~~(c) At its first meeting following January 1 of each odd-numbered year [the biennial appointment and qualification of a commissioner], the commission shall elect one of the commissioners chairman.~~

Sec. 6 (a) To be eligible for election ~~[appointment]~~ as a commissioner, as person must be a qualified voter, not less than 30 years of age, a citizen of the United States, and a resident of the State of Texas. No person is eligible for election ~~[appointment]~~ as a commissioner if at any time during the two-year period immediately preceding his election ~~[appointment]~~ he personally served as an officer, director, owner, employee, partner, or legal representative of any public utility or any affiliated interest, or he owned or controlled, directly or indirectly, stocks or bonds of any class with a value of \$10,000, or more in a public utility or any affiliated interest. Each commissioner shall qualify for office by taking the oath prescribed for other state officers and shall execute a bond for \$5,000 payable to the state and conditioned on the faithful performance of his duties.

Sec. 6(h) No member of the commission may seek nomination or election to any other civil office of the State of Texas or of the United States while he is a commissioner. If any member of the commission files for nomination for or election to any other civil office of the State of Texas or of the United States, his office as commissioner immediately becomes vacant~~[-and the governor shall appoint a successor]~~.

Sec. 7. A ~~[Whenever a]~~ vacancy in the office of commissioner ~~is [occurs, it shall be]~~ filled for the remainder of the unexpired term by a special election called by the governor and held in accordance with Section 32c, Texas Election Code (Article 4.12, Vernon's Texas Election Code) [in the manner provided herein with respect to the original appointment, except that the governor may make interim appointments to continue until the vacancy can be filled in the manner provided:

~~Any person appointed with the advice and consent of the senate to fill a vacancy shall hold office during the unexpired portion of the term].~~

SECTION 2. Subdivision 7(a), Section 12, Texas Election Code (Article 2.04, Vernon's Texas Election Code), is amended to read as follows:

(a) A county election precinct may not contain territory from more than one of the following territorial units:

- (1) commissioners precinct;
- (2) justice precinct;
- (3) congressional district;
- (4) state representative district;
- (5) state senatorial district;
- (6) public utility commissioner district; or
- (7) ~~[(6)]~~ ward in a city or town with a population of 10,000 or more.

SECTION 3. Subdivision 3(a), Section 32a, Texas Election Code (Article 4.10, Vernon's Texas Election Code), is amended to read as follows:

(a) The application must be filed with the Secretary of State in the case of a statewide or district special election. It must be accompanied with a fee of \$1,000 for a statewide office, including without limitation the office of United States Senator, a fee of \$750 for the district office of Public Utility Commissioner, a fee of \$500 for the district office of United States Representative, a fee of \$400 for the district office of State Senator, and a fee of \$200 for the district office of State Representative; or, in lieu of the filing fee, the application must be accompanied with a petition signed by at least 5,000 registered voters of the state in the case of a statewide office, and by at least 500 registered voters of the district in the case of a district office. A petition must show the address, voter registration number, and date of signing for each signer. No person may sign the petition of more than one candidate for the same office, and if a person signs the petition of more than one candidate, the signature is void as to all such petitions. A petition may be in multiple parts. To each part, which may consist of one or more sheets, there must be attached the affidavit of some registered voter, giving his address and voter registration number, and stating that each signature appearing in that part of the petition was affixed in the presence of the affiant and that to the best knowledge and belief of the affiant each signature is genuine and each person signing was a registered voter at the time of signing. A petition so verified is prima facie evidence that the signatures thereon are genuine and that the persons signing it are registered voters. Fees received under this subdivision shall be deposited in the general revenue fund of the state.

SECTION 4. Subdivisions 1 and 2, Section 32c, Texas Election Code (Article 4.12, Vernon's Texas Election Code), are amended to read as follows:

Subdiv. 1. Whenever there is a special election in a [any] representative or senatorial district in this state for the election of a [any] member of the Legislature or in a district for election of a Public Utility Commissioner, a majority vote of the electors participating in the election shall be necessary for election. If no candidate receives a majority of the votes cast at the first election, the Governor shall, within five days after the results of the election are officially declared, call a second election to be held not less than fifteen nor more than twenty-five days after the date of the proclamation or order calling the election. In the second special election the candidates shall be limited to the participants in the first election who received the largest and next largest number of votes at the first election.

Subdiv. 2. Whenever there is a special election in a [any] representative or senatorial district in this state for the election of a [any] member of the Legislature or in a district for election of a Public Utility Commissioner, the commissioners court of each county in the district shall meet within three days after the election

is held and canvass the returns. The county judge of each county in which the election was held shall, within twenty-four hours after the commissioners court canvasses the result, make out duplicate returns of the election, one of which he shall immediately transmit to the seat of government of the state, sealed in an envelope, directed to the Secretary of State, and endorsed "Election Returns for _ County, for _" (filling the first blank with the name of the county and the other blank with the name of the office for which the election was held); and the other of the returns shall be deposited in the office of the county clerk where the election was held.

SECTION 5. The heading of Section 32c, Texas Election Code (Article 4.12, Vernon's Texas Election Code), is amended to read as follows:

SPECIAL ELECTIONS FOR MEMBERS OF THE LEGISLATURE OR PUBLIC UTILITY COMMISSION

SECTION 6. Subdivision 1(a), Section 61c, Texas Election Code (Article 6.05c, Vernon's Texas Election Code), is amended to read as follows:

(a) Whenever there are to appear on the ballot for any general, special, or primary election, two or more office titles of offices which are regularly filled at the general election provided for in Section 9 of this code, they shall be listed on the ballot in the following relative order:

Federal offices:

President and Vice President
United States Senator
Congressman-at-Large
United States Representative (district office)

State offices:

(1) Statewide offices
Governor
Lieutenant Governor
Attorney General
Comptroller of Public Accounts
State Treasurer
Commissioner of General Land Office
Commissioner of Agriculture
Railroad Commissioner
Chief Justice, Supreme Court
Justice, Supreme Court
Presiding Judge, Court of Criminal Appeals
Judge, Court of Criminal Appeals

(2) District offices

State Senator
State Representative
Public Utility Commissioner
Member, State Board of Education
Chief Justice, Court of Appeals
Associate Justice, Court of Appeals
District Judge
Criminal District Judge
District Attorney
Criminal District Attorney
(3) County offices
County Judge
Judge, County Court-at-Law
Judge, County Criminal Court
Judge, County Probate Court
County Attorney

District Clerk
 District and County Clerk
 County Clerk
 Sheriff
 Sheriff and Tax Assessor-Collector
 County Tax Assessor-Collector
 County Treasurer
 County School Superintendent
 County Surveyor
 Inspector of Hides and Animals
 (4) Precinct offices
 County Commissioner
 Justice of the Peace
 Constable
 Public Weigher.

The headings "federal offices" and "state offices" and the subheadings under "state offices" shall not be printed on the ballot.

SECTION 7. Section 186(c), Texas Election Code (Article 13.08, Vernon's Texas Election Code), is amended to read as follows:

(c) The schedule of filing fees for either a full term or an unexpired term for the various offices is as follows:

(1) United States Senator	\$2,000
(2) All other statewide offices	1,500
(3) United States representative	1,500
(4) State senator	750
(5) State representative	400
(6) Member, state board of education	250
(7) Chief justice or associate justice, court of appeals	750
(8) District judge or judge of any court having status of a district court as classified in Section 61c of this code, as added and amended (Article 6.05c, Vernon's Texas Election Code)	700
(9) Judge of a statutory county court or judge of any court having status of a county court as classified in Section 61c of this code, as added and amended (Article 6.05c, Vernon's Texas Election Code), other than the constitutional county court	700
(10) District attorney or criminal district attorney or a county attorney that performs the same functions as either of the above	600
(11) Public utility commissioner	750
(12) [(11)] A county office as classified in Section 61c of this code, as added and amended (Article 6.05c, Vernon's Texas Election Code), for which a specific fee is not set by this subsection	300
(13) [(12)] County surveyor or inspector of hides and animals	50
(14) [(13)] Judge of the constitutional county court and county commissioner, County of 200,000 or more inhabitants	600
County under 200,000 inhabitants	300

(15) [(14)] Justice of the peace or constable,	
County of 200,000 or more inhabitants	500
County under 200,000 inhabitants	200
(16) [(15)] Public weigher	50

No fee shall be charged for any office of a political party.

SECTION 8. (a) At each election of public utility commissioners held before district boundaries are revised by the legislature, commissioners shall be elected from the following districts composed of Texas representative districts as they exist on the effective date of this Act:

- (1) District 1, consisting of Texas congressional districts 7, 8, and 18;
- (2) District 2, consisting of Texas congressional districts 3, 5, and 24;
- (3) District 3, consisting of Texas congressional districts 20, 21, and 23;
- (4) District 4, consisting of Texas congressional districts 12, 17, and 26;
- (5) District 5, consisting of Texas congressional districts 1, 2, and 4;
- (6) District 6, consisting of Texas congressional districts 9, 22, and 25;
- (7) District 7, consisting of Texas congressional districts 6, 10, and 11;
- (8) District 8, consisting of Texas congressional districts 14, 15, and 27; and
- (9) District 9, consisting of Texas congressional districts 13, 16, and 19.

(b) The governor shall appoint, with the advice and consent of the senate, a successor to the commissioner whose term expires on September 1, 1983, to hold office until January 1, 1985.

(c) A vacancy in the office of commissioner that occurs before January 1, 1985, shall be filled for the unexpired term as provided in Sections 5 and 7, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), as those sections existed before the effective date of this Act, and those sections are continued in effect until January 1, 1985, for that purpose as if this Act were not in force.

(d) Nine commissioners shall be elected at the general election in 1984, three for six-year terms, three for four-year terms, and three for two-year terms. They shall draw lots to determine which commissioners serve six-, four-, and two-year terms.

(e) The terms of all appointed commissioners expire when the elected commissioners take office.

(f) Successors to commissioners elected under this section are elected for full, six-year terms.

The amendment was read.

On motion of Senator Farabee, the amendment was tabled by the following vote: Yeas 20, Nays 9, Paired 1.

Yeas: Blake, Brown, Edwards, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Leedom, Lyon, McFarland, Montford, Parker, Sarpalius, Sharp, Sims, Traeger, Uribe, Vale.

Nays: Brooks, Caperton, Doggett, Mauzy, Parmer, Santiesteban, Truan, Whitmire, Williams.

Absent-excused: Washington.

PAIRED VOTE

Senator Farabee (present), who would vote "Yea", with Senator Washington (absent), who would vote "Nay".

Senator Lyon offered the following amendment to the bill:

Floor Amendment No. 13

Amend C.S.S.B. 232 by amending Sec. 5 as follows:

Sec. 5. A commission, to be known as the "Public Utility Commission of Texas" is hereby created. It shall consist of six [three] commissioners, who shall be

appointed by the governor, with the advice and consent of two-thirds of the members of the senate present, and who shall have and exercise the jurisdiction and powers herein conferred upon the commission. Immediately after this Act takes effect, the governor shall, with the advice and consent of the senate, appoint ~~two~~ [one] commissioners whose terms shall expire ~~six~~ [two] years after appointment; ~~two~~ [one] commissioners whose terms shall expire four years after appointment; and ~~two~~ [one] commissioners whose terms shall expire ~~two~~ [six] years after appointment. At the expiration of each of the above named terms, there shall be appointed, in the same manner, one commissioner to hold office for a term of six years. Each commissioner shall hold office until his successor is appointed and qualified. The chairman shall be appointed at large and shall have a six year term. The State shall be divided into five Public Utility Commission Districts of contiguous territory according to the number of qualified electors, as nearly as may be, and each of the five remaining commissioners shall be appointed from, and a resident of, the separate district which he or she represents.

The legislature shall, before the effective date of this legislation and at its first regular session after the publication of each United States decennial census, apportion the state into Public Utility Commission Districts. [At its first meeting following the biennial appointment and qualification of a commissioner, the commission shall elect one of the commissioners chairman.]

The amendment was read.

On motion of Senator Farabee, the amendment was tabled by the following vote: Yeas 23, Nays 6, Paired 1.

Yeas: Blake, Brown, Caperton, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Leedom, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Uribe, Vale, Whitmire, Williams.

Nays: Brooks, Doggett, Edwards, Lyon, Mauzy, Truan.

Absent-excused: Washington.

PAIRED VOTE

Senator Farabee (present), who would vote "Yea", with Senator Washington (absent), who would vote "Nay".

Senator Parmer offered the following amendment to the bill:

Floor Amendment No. 14

Section 1 of C.S.S.B. 232 is amended by striking Section 5 therein and substituting therefor the following:

Sec. 5. (a) ~~The (A commission, to be known as the)~~ "Public Utility Commission of Texas" ~~(is hereby created. It shall)~~ consists of three commissioners, who shall be appointed by the governor, with the advice and consent of two-thirds of the members of the Senate present, and who shall have and exercise the jurisdiction and powers herein conferred upon the commission. Appointment to the commission shall be made without regard to race, creed, sex, religion, or national origin of the appointees.

(b) Subject to the rejection and retention provisions under subsection (c) of this section, and immediately after this Act takes effect, the governor shall, with the advice and consent of the Senate, appoint one commissioner whose term shall expire two years after appointment; one commissioner whose term shall expire four years after appointment; and one commissioner whose term shall expire six years after appointment. At the expiration of each of the above named terms, there shall be appointed, in the same manner, one commissioner to hold office for a term of

six years, subject to the rejection and retention provisions of subsection (c) of this section.

(c) Commencing with the biennial general election in 1986, and again at every biennial general election thereafter, each commissioner shall, at the second biennial general election occurring during a commissioner's six-year appointed term, regardless of the amount of time actually served by such commissioner, stand for retention in office on a separate non-partisan ballot, reading as follows:

"Shall Commissioner _____ of the Public Utility Commission be retained in office?" Yes No (scratch one)

If a majority of those voting on the question vote against retaining a commissioner in office, a vacancy shall exist which shall be filled by appointment as provided in subsection (d) of this section; otherwise said commissioner shall, unless removed for cause or by a subsequent biennial retention election, remain in office for the remainder of said commissioner's appointed term, and at the expiration of each such term shall be eligible for reappointment to office by appointment in the manner prescribed by subsection (b) of this section.

(d) A vacancy occurring in the office of any commissioner due to any cause other than the normal expiration of the commissioner's six year term shall be filled immediately by appointment by the governor, with the advice and consent of two-thirds of the members of the Senate present, for the remainder of the term of the commissioner whose office became vacant, subject to the retention provisions of subsection (c) of this section.

(e) Each commissioner shall hold office until his/her successor is appointed and qualified. At its first meeting following the (biennial) appointment and qualification of a commissioner, the commission shall elect one of the commissioners chairman.

(f) Notwithstanding any other provision of this section, any commissioner not retained at a biennial general election is not eligible for reappointment as a commissioner for a period of six (6) years from the time of such biennial election.

The amendment was read.

On motion of Senator Farabee, the amendment was tabled by the following vote: Yeas 15, Nays 14, Paired 1.

Yeas: Blake, Brown, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Leedom, Lyon, McFarland, Montford, Sarpalius, Sharp, Sims.

Nays: Brooks, Caperton, Doggett, Edwards, Mauzy, Parker, Parmer, Santiesteban, Traeger, Truan, Uribe, Vale, Whitmire, Williams.

Absent-excused: Washington.

PAIRED VOTE

Senator Farabee (present), who would vote "Yea", with Senator Washington (absent) who would vote "Nay".

Senator Caperton offered the following amendment to the bill:

Floor Amendment No. 15

Amend C.S.S.B. 232 as follows:

Subsection (a), Section 38, Public Utility Regulatory Act, as amended (Article 1446c, Vernon's Texas Civil Statutes), is amended to read as follows:

"(a) It shall be the duty of the regulatory authority to insure that every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable. Rates shall not be unreasonably preferential, prejudicial, or discriminatory, but shall be sufficient, equitable, and

consistent in application to each class of consumers. The commission may approve an inverted block rate for residential users. For ratemaking purposes, the commission or railroad commission may treat two or more municipalities served by a public utility as a single class wherever the commission or railroad commission deems such treatment to be appropriate.”

The amendment was read.

On motion of Senator Farabee, the amendment was tabled by the following vote: Yeas 22, Nays 7, Paired 1.

Yeas: Blake, Brown, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Leedom, Lyon, McFarland, Montford, Parker, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Uribe, Vale, Whitmire, Williams.

Nays: Brooks, Caperton, Doggett, Edwards, Mauzy, Parmer, Truan.

Absent-excused: Washington.

PAIRED VOTE

Senator Farabee (present), who would vote “Yea”, with Senator Washington (absent), who would vote “Nay”.

Senator Parmer offered the following amendment to the bill:

Floor Amendment No. 16

SECTION 1. Section 1 of C.S.S.B. 232 is amended by striking subsection (e) of Section 43, and substituting the following:

(e) Pending the final determination of rates by the Regulatory Authority, no change in rates other than a temporary rate established by the Regulatory Authority shall be permitted.

The amendment was read.

On motion of Senator Caperton, the amendment was tabled by the following vote: Yeas 22, Nays 6, Paired 1.

Yeas: Blake, Brown, Caperton, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Leedom, Lyon, McFarland, Montford, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Uribe, Vale, Whitmire, Williams.

Nays: Brooks, Doggett, Edwards, Mauzy, Parmer, Truan.

Absent: Parker.

Absent-excused: Washington.

PAIRED VOTE

Senator Farabee (present), who would vote “Yea”, with Senator Washington (absent), who would vote “Nay”.

Senator Sarpalius offered the following amendment to the bill:

Floor Amendment No. 17

Amend C.S.S.B. 232 by Caperton, SECTION 1, ARTICLE VI, Sec. 43(c) to read as follows:

(c) Whenever there is filed with the Regulatory Authority any schedule modifying or resulting in a change in any rates then in force, the Regulatory Authority shall on complaint by any affected person or may on its own motion, at any time within 30 days from the date when such change would or has become

effective, and, if it so orders, without answer or other formal pleading by the utility, but on reasonable notice, including notice to the governing bodies of all affected municipalities and counties, enter on a hearing to determine the propriety of such change. The Regulatory Authority shall hold such a hearing in every case in which the change constitutes a major change in rates, provided that an informal proceeding may satisfy this requirement if no complaint has been received before the expiration of 45 days after notice of the change shall have been filed. In each case involving a major change over which the commission has original jurisdiction, the commission shall hold a regional hearing in a place determined by the commission to be the most convenient to the largest number of customers affected by the change except water, sewer, and member-owned utilities unless otherwise determined by the Commission. The purpose of a regional hearing is to collect testimony for inclusion in the record of the rate change hearing to be held in Austin. However, the Regulatory Authority may permit a public utility to utilize such a clause to pass through to its customers increases in the cost of purchased natural gas or electricity which have been expressly approved or accepted by a federal or state Regulatory Authority. The use of such a clause by the public utility shall be upon such terms and conditions as the Regulatory Authority may impose.

* The amendment was read and was adopted by the following vote: Yeas 17, Nays 12, Paired 1.

Yeas: Brown, Caperton, Doggett, Edwards, Glasgow, Leedom, Lyon, Mauzy, Montford, Parker, Parmer, Sarpalius, Sims, Truan, Uribe, Whitmire, Williams.

Nays: Blake, Brooks, Harris, Henderson, Howard, Jones, Kothmann, McFarland, Santiesteban, Sharp, Traeger, Vale.

Absent-excused: Washington.

PAIRED VOTE

Senator Farabee (present), who would vote "Yea", with Senator Washington (absent), who would vote "Nay".

Senator Doggett offered the following amendment to the bill:

Floor Amendment No. 18

Amend C.S.S.B. 232 by adding new Subsections (f), (g) and (h) to Section 26 of the Public Utility Regulatory Act, (Article 1446c, Vernon's Texas Civil Statutes) to read as follows:

(f) With respect to appeals of electric utility rates, the commission shall hear such an appeal from the decision of the governing body of a municipality with a population of less than 400,000, according to the last preceding Federal Census, de novo based on the same test year presented to the governing body of the municipality and by its final order shall fix such rates as the municipality should have fixed in the ordinance from which the appeal was taken. Provided, however, that in the event that the decision of such governing body sets rates substantially similar to those set by the governing body of a municipality with a population of 400,000 or more according to the last preceding Federal Census, located in the same service area, which has elected to have the commission review its rate order under the substantial evidence rule, the commission shall at the option of the municipality with a population of less than 400,000 review such appeal under the substantial evidence rule. The rates set by final order of the commission shall take effect when the commission issues such final order.

(g) With respect to appeals of electric utility rates set by decision of the governing body of a municipality with a population of 400,000 or more according

to the last preceding Federal Census, the commission shall hear such an appeal under the substantial evidence rule or de novo based on the same test year presented to the governing body of the municipality at the option of such municipality. The rates set by final order of the commission shall take effect when the commission issues such final order.

(h) If the standard of review of the decision of the governing body of a municipality is the substantial evidence rule, the commission may not substitute its judgment for that of the governing body of the municipality but may affirm the decision of the governing body of the municipality in whole or in part and shall reverse or remand the case for further proceedings if substantial rights of the appellant have been prejudiced because of the findings, inferences, conclusions, or decisions of the governing body of the municipality are:

- (1) in violation of constitutional or statutory provisions;
- (2) in excess of the statutory authority of the governing body of the municipality;
- (3) made upon unlawful procedure;
- (4) affected by other error of law;
- (5) not reasonably supported by substantial evidence in view of the reliable and probative evidence in the record as a whole; or
- (6) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

The amendment was read.

On motion of Senator Caperton, the amendment was tabled by the following vote: Yeas 22, Nays 7, Paired 1.

Yeas: Brooks, Brown, Caperton, Edwards, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Leedom, Lyon, McFarland, Montford, Parker, Santiesteban, Sarpalius, Sharp, Sims, Vale, Whitmire, Williams.

Nays: Blake, Doggett, Mauzy, Parmer, Traeger, Truan, Uribe.

Absent-excused: Washington.

PAIRED VOTE

Senator Farabee (present), who would vote "Yea", with Senator Washington (absent), who would vote "Nay".

Senator Uribe offered the following amendment to the bill:

Floor Amendment No. 19

Amend C.S.S.B. 232 as follows:

1. By amending Subsection (c), Section 54 to read as follows:

"(c) Certificates of convenience and necessity shall be granted on a nondiscriminatory basis after consideration by the Commission of the adequacy of existing service, the need for additional service, the effect of granting or denial of a certificate on the applicant of the certificate on any public utility of the same kind already serving the approximate area, and on such factors as the benefits of service by citizen owned retail public utilities, community values, recreational and park areas, historical and aesthetic values, environmental integrity, and the probable improvement of service or lowering of cost to consumers in such area resulting from the granting or denial of such certificate. The Commission shall also consider whether or not a municipality in the exercise of its governmental authority has granted a franchise to a retail public utility to provide service within the city limits of the municipality."

2. By amending Section 55 by adding Subsections (d) and (e) to read as follows:

"(d) When a city, town, or village which owns its own retail public utility, or which has executed a franchise to another retail public utility, annexes an area certificated to one or more other electric retail public utilities, the affected retail public utilities may reach agreements designating customers and areas to be served if the agreements are designed to prevent unnecessary duplication of facilities. After notice and hearing, if the Commission finds the agreements to be in the public interest, the agreements shall be valid and enforceable and shall be incorporated into the appropriate certificates of convenience and necessity. If an agreement cannot be reached by the affected electric retail public utilities, the provision of Subsection (e) of this section shall apply.

"(e) When a city, town, or village which owns its own retail public utility, or which has executed a franchise to another retail public utility, annexes an area certificated to one or more other electric retail public utilities, the legislature finds that it is in the public interest for the municipally owned or municipally franchised electric utility to be able to serve the residents of the city and, for that reason, the Commission may amend or revoke existing certificates and shall certificate an equitable portion of the annexed area to the municipally owned or municipally franchised electric utility where such portion, although lawfully served by the electric retail public utility or utilities to which it is certified, is so situated that the public convenience and necessity, as determined by the Commission under the standards set forth in Subsection (c) of Section 54 of this Act, would be served by the certification of such portion to the municipally owned or municipally franchised electric utility.

3. By amending Section 62 by adding Subsection (f) to read as follows:

"(f) The Commission may amend or revoke certificates of convenience and necessity for electric retail public utilities if it finds such amendment or revocation to be proper after consideration of the provisions of Subsections (d) and (e) of this section."

The amendment was read.

On motion of Senator Caperton, the amendment was tabled by the following vote: Yeas 25, Nays 5.

Yeas: Blake, Brooks, Brown, Caperton, Doggett, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Leedom, Lyon, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Vale, Whitmire, Williams.

Nays: Mauzy, McFarland, Montford, Truan, Uribe.

Absent-excused: Washington.

Senator Glasgow offered the following amendment to the bill:

Floor Amendment No. 20

Amend C.S.S.B. 232 as follows:

Amend Section 3 of C.S.S.B. 232 by striking subsection (c)(2) and substituting the following:

(2) (a) the conveyance, transmission, or reception of communications over a telephone system as a dominant carrier as hereinafter defined ("telecommunications utilities" hereinafter); provided that no person or corporation not otherwise a public utility within the meaning of this Act shall be deemed such solely because of the furnishing or furnishing and maintenance of a private system; and provided further that nothing in this Act shall be construed to apply to telegraph services, television stations, radio stations, community antenna television services, or radio-telephone services that may be authorized under the

Domestic Public Land Mobile Radio Service or Rural Radio Service rules of the Federal Communications Commission, other than such radio-telephone services provided by wire-line telephone companies; and provided further that specialized communications common carriers, resellers of communications, and other communications carriers who convey, transmit or receive communications in whole or in part over a telephone system who are not dominant carriers are also telecommunications utilities, but the commission's regulatory authority as to them is only as hereinafter defined.

(b) "Dominant carrier" when used in this Act means the provider of any particular communication service which is provided in whole or in part over a telephone system who as to such service has sufficient market power in a telecommunications market as defined by the commission to enable it to control prices for such service in such market and any provider local exchange telephone service within a certificated exchange area as to such service. Any such provider determined to be a dominant carrier as to a particular telecommunications service in a market shall not be presumed to be a dominant carrier of a different telecommunications service in that market.

Amend Section 18 of C.S.S.B. 232 by striking the present language in Section 18 and substituting the following Section 18:

Sec. 18. (a) It is the policy of this state to protect the public interest in having adequate and efficient telecommunications service available to all citizens of the state at just, fair and reasonable rates. The legislature finds that the telecommunications industry through technical advancements, federal judicial and administrative actions, and the formulation of new telecommunications enterprises has become and will continue to be in many and growing areas a competitive industry which does not lend itself to traditional public utility regulatory rules, policies and principles; and that therefore, the public interest requires that new rules, policies and principles be formulated and applied to protect the public interest and to provide equal opportunity to all telecommunications utilities in a competitive marketplace. It is the purpose of this section to grant to the commission the authority and the power under this Act to carry out the public policy herein stated.

(b) Subject to the limitations imposed in this Act, and for the purpose of carrying out the public policy above stated and of regulating rates, operations, and services to that such rates may be just, fair, and reasonable, and the services adequate and efficient, the commission shall have exclusive original jurisdiction over the business and property of all telecommunications utilities in this state. In the exercise of its jurisdiction to regulate the rates, operations, and services of a telecommunications utility providing service in a municipality on the state line adjacent to a municipality in an adjoining state, the commission may cooperate with the utility regulatory commission of the adjoining state or the federal government and may hold joint hearings and make joint investigations with any of those commissions.

(c) The commission shall only have the following jurisdiction over all specialized communications common carriers, resellers of communications, and other communications carriers who convey, transmit or receive communications in whole or in part over a telephone system who are not dominant carriers:

(1) to require registration as provided in subsection (d) below;

(2) to conduct such investigations as are necessary to determine the existence, impact, and scope of competition in the telecommunications industry, including identifying dominant carriers and defining telecommunications markets, and in connection therewith may call and hold hearings, issue subpoenas to compel the attendance of witnesses and the production of papers and documents, and make

findings of fact and decisions with respect to administering the provisions of this Act or the rules, orders and other actions of the commission;

(3) to require the filing of such reports as the commission may direct from time to time; and

(4) to establish and enforce reasonable rules covering the quality of the provision of service to the public.

(d) All providers of communications service described in subsection (c) above who are providing such service to the public on the effective date of this Act shall register with the commission within ninety (90) days of the effective date of this Act. All providers of communications service described in subsection (c) above who commence such service to the public thereafter shall register with the commission within thirty (30) days of commencing service. Such registration shall be accomplished by filing with the commission a description of the location and type of service provided, the cost to the public of such service and such other registration information as the commission may direct.

The amendment was read.

Question - Shall the amendment be adopted?

SENATE PAGES EXCUSED

On motion of Senator Blake and by unanimous consent, the Senate Pages were excused for the remainder of the day.

SENATE BILL 1205 REREFERRED

On motion of Senator Brooks and by unanimous consent, S.B. 1205 was withdrawn from the Committee on State Affairs and rereferred to the Committee on Health and Human Resources.

GUEST PRESENTED

The President introduced The Honorable Marshall Formby, former Member of the Senate and Chairman of the State Highway Commission.

Senator Formby was welcomed by the Senate.

COMMITTEE SUBSTITUTE SENATE BILL 232 ON SECOND READING

The Senate resumed consideration of C.S.S.B. 232 on its second reading and passage to engrossment with an amendment pending by Senator Glasgow.

Question - Shall the amendment be adopted?

Senator Brooks moved to table the amendment. The motion to table the amendment was lost by the following vote: Yeas 11, Nays 19.

Yeas: Brooks, Caperton, Edwards, Harris, Henderson, Mauzy, McFarland, Parmer, Santiesteban, Sharp, Uribe.

Nays: Blake, Brown, Doggett, Farabee, Glasgow, Howard, Jones, Kothmann, Leedom, Lyon, Montford, Parker, Sarpalius, Sims, Traeger, Truan, Vale, Whitmire, Williams.

Absent-excused: Washington.

Question recurring on the adoption of the amendment, the amendment was adopted.

RECORD OF VOTE

Senator Brooks asked to be recorded as voting “Nay” on the adoption of the amendment.

Senator Parker offered the following amendment to the bill:

Floor Amendment No. 21.

Amend S.B. 232, Section 15A(f)(4) to read as follows:

“(4) may initiate or intervene by and through the Attorney General as a matter of right or otherwise appear in any judicial proceedings involving or arising out of any action taken by an administrative agency in a proceeding in which the counsel was authorized to appear;”

The amendment was read.

On motion of Senator Parker and by unanimous consent, the amendment was withdrawn.

Senator Mauzy offered the following amendment to the bill:

Floor Amendment No. 22

Amend C.S.S.B. 232 on page 4, line 31, by inserting the following after the period:

Appointments to the commission shall be made with due regard for the race, creed, sex, religion, and national origin of the appointees and the geographical distribution of the members of the commission.

The amendment was read and was adopted.

Senator Parker offered the following amendment to the bill:

Floor Amendment No. 23

Amend S.B. 232, Section 15A(f)(4) to read as follows:

“(4) may initiate or intervene by and through the Attorney General as a matter of right or otherwise appear in any judicial proceedings involving or arising out of any action taken by an administrative agency in a proceeding in which the counsel was authorized to appear;”

The amendment was read.

On motion of Senator Caperton, the amendment was tabled by the following vote: Yeas 20, Nays 9.

Yeas: Blake, Brown, Caperton, Edwards, Farabee, Harris, Henderson, Howard, Jones, Kothmann, Leedom, McFarland, Santiesteban, Sarpalius, Sharp, Sims, Uribe, Vale, Whitmire, Williams.

Nays: Brooks, Doggett, Lyon, Mauzy, Montford, Parker, Parmer, Traeger, Truan.

Absent: Glasgow.

Absent-excused: Washington.

**VOTE ON ADOPTION OF
FLOOR AMENDMENT NO. 17 RECONSIDERED**

On motion of Senator Sarpalius and by unanimous consent, the vote by which Floor Amendment No. 17 was adopted was reconsidered.

Question - Shall Floor Amendment No. 17 be adopted?

Senator Sarpalius offered the following substitute for the pending amendment:

Floor Amendment No. 24.

Amend S.B. 232 by Caperton, SECTION 1, ARTICLE VI, Sec. 43(c) to read as follows:

(c) Whenever there is filed with the Regulatory Authority any schedule modifying or resulting in a change in any rates then in force, the Regulatory Authority shall on complaint by any affected person or may on its own motion, at any time within 30 days from the date when such change would or has become effective, and, if it so orders, without including notice to the governing bodies of all affected municipalities and counties, enter on a hearing to determine the propriety of such change. The Regulatory Authority shall hold such a hearing in every case in which the change constitutes a major change in rates, provided that an informal proceeding may satisfy this requirement if no complaint has been received before the expiration of 45 days after notice of the change shall have been filed. In each major rate case as determined by the commission, the commission shall hold a regional hearing in a place determined by the commission to be the most convenient to the largest number of customers affected by the change except water, sewer, and member-owned utilities unless otherwise determined by the Commission. The purpose of a regional hearing is to collect testimony for inclusion in the record of the rate change hearing to be held in Austin. The Regulatory Authority may permit a public utility to utilize a clause to pass through to its customers increases in the cost of purchased natural gas or electricity which have been expressly approved or accepted by a federal or state Regulatory Authority. The use of such a clause by the public utility shall be upon such terms and conditions as the Regulatory Authority may impose.

The substitute for the pending amendment was read and was adopted by the following vote: Yeas 23, Nays 6.

Yeas: Blake, Brooks, Brown, Caperton, Doggett, Edwards, Farabee, Howard, Jones, Kothmann, Leedom, Lyon, Mauzy, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sims, Truan, Uribe, Williams.

Nays: Harris, Henderson, Sharp, Traeger, Vale, Whitmire.

Absent: Glasgow.

Absent-excused: Washington.

Question recurring on the adoption of the pending amendment as substituted, the pending amendment as substituted was again adopted.

On motion of Senator Caperton and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 232 ON THIRD READING

Senator Caperton moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.S.B. 232 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent: Glasgow.

Absent-excused: Washington.

The bill was read third time and was passed.

SENATE RULE 103 SUSPENDED

On motion of Senator Brooks and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Health and Human Resources might consider S.B. 1205 today.

MEMORIAL RESOLUTION

S.R. 418 - By Jones and Sims: Memorial resolution for Scott Lewis Hargrove.

WELCOME AND CONGRATULATORY RESOLUTIONS

H.C.R. 42 - (Parker): Proclaiming Mauriceville as "The Crawfish Capital of Texas".

H.C.R. 132 - (Doggett): Declaring April 15, 1983, as Texas Retired Teachers Day.

S.R. 419 - By Sims: Extending congratulations to the First Baptist Church of Blanco on the occasion of its 125th anniversary.

S.R. 420 - By Kothmann: Extending congratulations to the Sam Houston High School boys' basketball team.

S.R. 422 - By Vale: Extending welcome to the students from the Political Science Department of St. Mary's University of San Antonio.

RECESS

On motion of Senator Brooks, the Senate at 5:33 o'clock p.m. took recess until 8:30 o'clock a.m. tomorrow.

APPENDIX

Signed by Governor
(April 5, 1983)

S.B. 94 (Effective August 29, 1983)

S.B. 131 (Effective immediately)

S.B. 182 (Effective immediately)

S.B. 259 (Effective August 29, 1983)

Sent to Governor (April 6, 1983)

S.C.R. 23

S.C.R. 28

S.B. 101

S.B. 114

S.B. 132

S.B. 136

S.B. 171

S.B. 209

S.B. 256

S.B. 374

S.B. 434

S.B. 452